

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07  
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E.O. 11652: /A  
TAGS: ETRD, EIND, EEC, EFIN  
SUBJECT: POSSIBILITY OF US/EC INSURANCE NEGOTIATIONS

REF: A) EC BRUSSELS A-466, B) EC BRUSSELS 10240  
C) 73 EC BRUSSELS A-323

1. MISSION OFFICER AND LOU DWYER, USDOC, MET DECEMBER 14 WITH  
EC COMMISSION OFFICIAL RESPONSIBLE FOR INSURANCE MATTERS,  
F. ROBIN HUTTON. DISCUSSION CENTERED ON US INSURANCE  
INDUSTRY-INTEREST IN A POSSIBLE NEGOTIATION ON RECIPROCAL  
TREATMENT FOR NON-LIFE INSURANCE COMPANIES OPERATING IN THE  
US AND EC.

2. HUTTON CLAIMED THAT, WITHOUT AN AGREEMENT, US INSURANCE  
COMPANIES COULD FIND THEMSELVES AT A COMPETITIVE DISADVANTAGE  
WHEN THE THIRD PARTY PROVISIONS OF THE EC DIRECTIVE, WHICH  
COORDINATES MEMBER STATE REGULATIONS ON INSURANCE, GOES INTO  
EFFECT IN JULY 1978. THE DIRECTIVE CALLS FOR STIFFER  
FINANCIAL GUARANTEES FOR BRANCHES OF INSURANCE COMPANIES  
WHOSE HOME OFFICES ARE OUTSIDE THE EC THAN FOR EC-BASED  
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COMPANIES (REF C). TEXT OF DIRECTIVE IS CONTAINED IN  
OFFICIAL JOURNAL OF THE EUROPEAN COMMUNITIES, AUGUST 16,  
1973, L 228.

3. HUTTON SAID THIS DIRECTIVE PERMITS THE EC TO ENTER  
INTO AGREEMENTS ON THE BASIS OF RECIPROCITY, AS IT HAS  
ALREADY DONE WITH THE SWISS (REF B), TO MODIFY THE DIS-

CRIMINATORY RULES AGAINST THIRD COUNTRY INSURANCE COMPANIES. (NOTE: WE DO NOT YET HAVE A COPY OF THE TEXT BEING NEGOTIATED BETWEEN THE EC AND THE SWISS, BUT WE HOPE TO GET A COPY SHORTLY AFTER THE HOLIDAYS.)

4. DWYER EXPLAINED THAT SOME U.S. INSURANCE COMPANIES WERE INTERESTED IN SUCH AN AGREEMENT, BUT THE FEDERAL GOVERNMENT'S POWERS WERE LIMITED SINCE INSURANCE OPERATIONS IN THE U.S. ARE MAINLY GOVERNED BY STATE (OR U.S. TERRITORIAL) REGULATIONS AND JURISDICTION. HUTTON SUGGESTED THAT THE INDUSTRY SHOULD CONSULT WITH USG AUTHORITIES ABOUT THE PROPER PROCEDURES IF THE INDUSTRY WANTED AN AGREEMENT WITH THE EC.

5. HUTTON SAID THAT, DUE TO THE PARTICULAR JURISDICTIONAL SITUATION OF THE US INSURANCE INDUSTRY, IT WAS A MATTER OF URGENCY THAT COMPANIES AND US GOVERNMENT BODIES BEGIN TO TACKLE THIS QUESTION. THE SWISS HAD HAD A SIMILAR JURISDICTIONAL PROBLEM BETWEEN THE FEDERAL GOVERNMENT AND THE SWISS CANTONS AND THOSE NEGOTIATIONS HAVE TAKEN ALMOST FOUR YEARS. (ACCORDING TO HUTTON THE SWISS HAVE HAD TO SIGNIFICANTLY REVISE AND CENTRALIZE THEIR INSURANCE LAWS.)

6. RECOMMENDATION: MISSION SUGGESTS THAT USDOC CONTACT RESPONSIBLE INSURANCE COMPANIES AND ASSOCIATIONS TO OBTAIN THEIR ASSESSMENT OF THE IMPACT OF THE EC DIRECTIVE ON US-BASED COMPANIES AND DEGREE OF SUPPORT FOR NEGOTIATIONS AS ENVISAGED BY DIRECTIVE. IF THE PROBLEMS  
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SEEM SIGNIFICANT, THE US GOVERNMENT WILL NEED TO MOVE RAPIDLY.

7. WITHOUT AN AGREEMENT THE US COULD STILL ADVANCE LEGAL AND PRECEDENTIAL ARGUMENTS THAT OUR FIRMS WHICH ARE REGISTERED IN ANY OF THE MEMBER STATES SHOULD BE ALLOWED THE SAME BENEFITS UNDER THE DIRECTIVE AS FIRMS WITH HEAD OFFICES IN THE COMMUNITY (BASED ON FCN TREATIES OR ARTICLE 58 OF ROME TREATY). WE COULD ALSO POINT OUT THAT IF THE COMMUNITY HARASSES OUR FIRMS, RISK EXISTS THAT SOME OF OUR STATES WILL DO THE SAME TO ITS FIRMS. HOWEVER, IT SEEMS CLEAR THAT THE ONLY CERTAIN WAY TO MAKE SURE OUR COMPANIES OPERATE IN THE EC WITH MINIMUM HINDRANCE IS THROUGH A RECIPROCAL AGREEMENT. GIVEN THE LEGAL PROBLEMS IN THE US, ANY SORT OF US/EC AGREEMENT WOULD REQUIRE CONSIDERABLE PREPARATION--AND FERVENT INSURANCE INDUSTRY SUPPORT. WE BELIEVE WASHINGTON SHOULD BEGIN NOW TO EXPLAIN THIS SITUATION TO THE INDUSTRY. HINTON

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## Message Attributes

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